

REMARKS

The claims presented include the following changes or additions:

1. When initially presented, the original claims in this application included an error in the numbering, as was pointed out by the Examiner – there were two original claims 9, the second of which was renumbered by the Examiner as claim 10, and succeeding claims were accordingly renumbered.

In the presentation of claims in this paper, original claims 9 (second occurrence) through 17 have been renumbered as claims 10 – 18.

2. In the renumbered claims, the dependency of claim 11 has been changed to claim 10, the dependency of claim 13 has been changed to claim 12, the dependency of claim 19 has been changed to claim 18, the dependency of claim 20 has been changed to claim 19, and the dependency of claim 21 has been changed to claim 18.

3. In the renumbered claims, claim 21 now recites “The method of claim 18, wherein said “non-conventional” shopping cart comprises a multi-compartment personal hand cart as recited in claims 1-17,”.

4. New claims 22 and 23 have been presented for consideration, and are drawn to the method of deterring theft using a multi-level cart, but clearly recite a “non-conventional” shopping cart which includes a first basket disposed immediately and vertically below a second basket, both baskets being pivotably mounted to the same frame, and being movable between a first open position in

which both baskets are functional to receive groceries and a second closed position in which both baskets are collapsed and non-usable.

Applicant respectfully traverses the requirement to elect for the following reasons.

A. First, the Examiner states that the Group I and Group II inventions are related as product and process of use, and that they are distinct because the method (Group II) can be practiced with a materially different product, citing MPEP 806.05(h) as basis. As justification of the restriction requirement, pursuant to MPEP 806.05(h), the Examiner states "In the instant case, the method of theft deterrence can be practiced with a materially different utility cart."

It is the understanding of the undersigned that MPEP 806.05 (h) requires that the Examiner show, not merely allege, that the method can be practiced with a materially different cart.

Insofar as the Examiner has not shown distinction between the two groups of claims – but only alleged distinction – applicant respectfully solicits reconsideration and withdrawal of the restriction requirement.

B. Secondly, and in connection with the Examiner's need to show that the method defined in the applicant's Group II set of claims can be practiced by a materially different cart, it appears that the Examiner has overlooked claim 21

of the Group II set of claims, which while drawn to the method of preventing theft of conventional shopping carts, requires that the "non-conventional" cart (which is part of the method recited) be the cart as specified in claims 1-17 of the Group I set of claims. Thus, it appears that the Examiner must at least also include claim 21 in the Group I set of claims.

C. Applicant has also presented claims 22 and 23, drawn to the method of deterring the theft of "conventional" shopping carts, using a "non-conventional" cart of the type that includes "a first basket disposed immediately and vertically below a second basket, both said baskets being pivotably mounted to the same frame, said first and second baskets being movable between a first open position in which both baskets are functional to receive groceries and a second closed position in which both baskets are collapsed and non-usable".


Claims 22 and 23, while drawn to a method of deterring theft of shopping carts, specifically call for a cart having the structure as set forth in the Group I set of claims, thereby imposing the requirement that the method of Group II use the cart structure of the Group I set of claims.

For purposes of insuring a complete response to the Examiner's restriction requirement, applicants hereby elect the Group I set of claims, namely claims 1-17. And in view of applicants' comments above, it is respectfully urged

that original claim 21 along with newly presented claims 22 and 23, all drawn to the method of deterring theft using a cart requiring the cart structure of Group I or using a cart having structure similar to that set forth in the Group I set of claims, must be examined on the merits along with claims 1-17 of group I.

APPLICANT also urges that an examination on the merits of claims is now warranted.

Respectfully submitted,
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